TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 2930 - SB 2960

March 5, 2010

SUMMARY OF BILL: Establishes the TennCare Provider Audit and Recoupment Act which requires written notice be given to providers at least three weeks prior to an on-site audit, a 10 day discussion period following receipt of the notification, and a finalized notice describing in detail the provider's records for inspection for either a desk or on-site audit. The finalized request must clearly define milestone dates pertaining to records' requested due dates, permissible extensions of dates, the timelines for informal reconsideration, and deadlines for requesting a formal appeal. Any records requested must directly relate to claims for reimbursement and be no more than the number permitted by the formula currently in use by the Centers for Medicare and Medicaid Services (CMS). Inspections for on-site audits will be conducted at reasonable times during regular business hours. The auditor performing a desk audit must give the provider at least 45 business days from the receipt of the finalized request to provide records and shall grant an extension for a reasonable request.

The audit and recovery activities are limited to claims that have been paid within three years of the date of issuance of the medical records request letter or demand letter. Any claim paid prior to October 1, 2007, is not subject to audit and recovery activities. Individual claims must be reviewed and extrapolation to determine overpayments is prohibited in any audit. The provider will have at least 30 days to respond to a preliminary audit report and recoupment of any disputed funds will only occur after the final decision on appeal. The provider will have 60 days following an informal meeting with TennCare upon the issuance of the final audit report to challenge the findings of the final report through the appeal process. Requires the Commissioner of Finance and Administration to appoint a 10-member recoupment determination committee to approve regulations, assist in the implementation of the regulations, and advise the Commissioner on issues relating to the state's determination of the amount due to the State. Upon the filing of an appeal by a provider, the committee shall review the final audit report and determine what funds, if any, are due the state. The decision of the Committee is final unless contested by the provider. The committee shall serve without compensation but will be reimbursed for travel.

ESTIMATED FISCAL IMPACT:

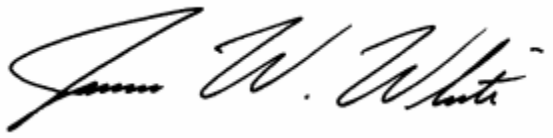
Decrease State Revenue – Exceeds $1,000,000
Increase State Expenditures – Exceeds $5,000,500

Assumptions:

- According to the Bureau of TennCare, the program must return identified amounts of recovered provider overpayments to the federal government within 60 days of audit completion.
- While the bill limits audits to claims paid on or after October 1, 2007, the federal auditors will not be limited to this same set of claims. The state would not be able to collect overpayments from providers but will owe repayments to the federal government for any claim paid prior to October 1, 2007.
- Due to the provisions of the bill, the state will be unable to collect overpayments from providers in the same time period as is required by federal regulations resulting in the state repaying the federal government prior to being able to recoup from providers.
- Based on the State Program Integrity Assessment for federal fiscal year 2008, the Bureau of TennCare estimates that it is collecting approximately $25,000,000 per year.
- While an exact amount cannot be determined, the Bureau of TennCare reasonably estimates that at least 20 percent of the annual collections would not be collected from providers and would be repaid to the federal government using state funds resulting in an increase in state expenditures of $5,000,000 ($25,000,000 x 20%).
- Collections are divided between the state and federal programs based on the federal medical assistance percentages (FMAP). It is assumed that there will be a corresponding decrease in state revenue. The estimated FMAP used for calculating expenditures in FY10-11 is 65.78 percent resulting in a state percentage of 34.22 percent. While an exact amount cannot be determined, it is reasonably estimated that any corresponding decrease in state revenue based on the estimated FY10-11 FMAP will be $1,711,000 ($5,000,000 x 34.22%). For the estimated fiscal impact it is assumed that any loss in state revenue will exceed $1,000,000.
- The 10 member committee will receive travel reimbursement for committee meetings. The provisions of the bill do not include a set number of meetings, but it is reasonably estimated that the committee will meet at least two times per year and each member will travel at least 50 miles round trip to attend the meetings.
- Travel reimbursement is estimated to increase state expenditures by an amount exceeding $460 [(50 miles x $.46 per mile) x 10 members x 2 meetings per year].

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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